

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 01-244
(Judge Charles W. Cope)

Case No. SC01-2670

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**SPECIAL COUNSEL'S IN LIMINE MOTION
TO EXCLUDE TESTIMONY OF JOEL CHARLES,**

"ENHANCED TAPES," AND "RECORDS OF RADIO TRANSMISSIONS"

The Special Counsel hereby moves to exclude the testimony of Joel Charles, any "enhanced audiotapes," and "records of radio transmissions" from evidence at the final hearing and in support thereof states:

1. On Monday, June 17, 2002, counsel for Judge Cope advised the Special Counsel that he had had an expert "enhance" the audiotapes of Judge Cope's booking in Carmel and of Nina Jeanes 911 telephone call.

2. That same day, Judge Cope served his witness and exhibit list, which listed Joel Charles as a witness.

3. By letter dated June 18, 2002, Judge Cope's counsel advised that Mr. Charles is an "[e]xpert in audio and video tape analysis, voice identification, noise reduction and transcript verification" and that he will "testify that he conducted analysis of April 5, 2001 booking videotape and tape of 911 call in order to bring up background conversation and identify voice of Lisa Jeanes." A copy of this letter is attached hereto as **Exhibit A**. This letter was received by fax by Special Counsel at 2:00 p.m., during a telephone conference with the Chair. The Special Counsel did not see the letter until after the hearing.

4. The Chair ordered that the parties exchange witness and exhibit lists no later than June 17, 2002.

5. On June 18, 2002, Judge Cope served his "Amended Witness and Exhibit List." which itself he has since amended twice more. In this first amended list, Judge Cope listed "two enhanced audiotapes of booking" and "enhanced audiotape of 911 call."

6. The Special Counsel has asked to be provided copies of these audiotapes. Judge Cope's counsel advised that he does not yet have the tapes, but will provide them as soon as possible.

7. The final hearing is set for June 24, 2002.

8. Even if the tapes were received today, the Special Counsel would not have sufficient time to review the tapes, depose Mr. Charles, determine whether an opposition expert is necessary, retain such an expert, and have the expert review the "enhanced tapes."

9. In short, it is too late in the day to offer this testimony and these tapes, and the Special Counsel will suffer irreparable harm if they are not excluded.

10. The original (timely filed) exhibit list included an exhibit described as "records of radio transmissions relating to the dispatch to the Normandy Inn pursuant to a 911 call at approximately 0042 hours on April 5, 2001." The undersigned requested a copy of these records. Judge Cope's attorney's secretary left a voicemail with the Special Counsel this date stating that they did not have the exhibit in their possession, but as soon as they could locate it, they would produce a copy.

11. Again, the Special Counsel cannot adequately prepare for trial with regard to

exhibits he has not had a chance to review.

WHEREFORE, the Chair should exclude the testimony of Joel Charles, any "enhanced audiotapes," and any records of radio transmissions from evidence at the final hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and regular U.S. mail to: **Robert W. Merkle, Jr., Esq.**, Co-Counsel for Respondent, 5510 W. La Salle Street, #300, Tampa, Florida 33607-1713; **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3rd District Court of Appeal, 2001 S.W. 117th Ave., Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications Commission, P.O. Box 391, Tallahassee, Florida 32301; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602 this 19th day of June, 2002.

By:
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